

§ 6.9

(2) The Government's option shall lapse as regards any foreign country:

(i) When the Solicitor determines after consultation with the agency most directly concerned, not to cause an application to be filed in said foreign country or otherwise to seek protection of the invention, as by publication;

(ii) When the Solicitor fails to take action to seek protection of the invention in said foreign country (a) within six months of the filing of an application for a United States patent on the invention, or (b) within six months of declassification of an invention previously under a security classification, whichever is later.

(b) *By Employee.* (1) No Department employee shall file or cause to be filed an application for patent in any foreign country on any invention in which the Government has acquired the entire (foreign and domestic) patent rights, or holds an unexpired option to acquire the patent rights in said foreign country, or take any steps which would preclude the filing of an application by or on behalf of the Government.

(2) An employee may file in any foreign country where the Government has not exercised its option acquired pursuant to § 6.2(d)(10), to do so, or determines not to do so.

(3) The determination or failure to act as set forth in § 6.8(a)(2) shall constitute a decision by the Government to leave the foreign patent rights to the invention in the employee, subject to a nonexclusive, irrevocable, royalty-free license to the Government in any patent which may issue thereon in any foreign country, including the power to issue sublicenses for governmental purposes or in furtherance of the foreign policies of the Government or both.

§ 6.9 Publication and public use of invention before patent application is filed.

(a) Publication or public use of an invention constitutes a statutory bar to the granting of a patent for the invention unless a patent application is filed within one year of the date of such publication or public use. In order to preserve rights in unpatented inventions, it shall be the duty of the inventor, or of his supervisor if the inventor

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is not available to make such report, to report forthwith to the Solicitor any publication or use (other than experimental) of an invention, irrespective of whether an invention report has previously been filed. If an invention report has not been filed, such a report, including information concerning the public use or publication, shall be filed at once. If an invention is disclosed to any person who is not employed by the Department or working in cooperation with the Department upon that invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

(b) No description, specification, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed shall be published, nor shall any written description, specification, plan, or drawing of such invention be furnished to anyone other than an employee of the Department or a person working in cooperation with the Department upon that invention, unless the Solicitor is of the opinion that the interests of the Government will not be prejudiced by such action. If any publication disclosing the invention, not previously approved by the Solicitor, comes to the attention of the inventor or his supervisor, it shall be the duty of such person to report such publication to the Solicitor.

§ 6.10 Publicity concerning the invention after patent application is filed.

In order that the public may obtain the greatest possible benefit from inventions in which the Secretary has transferable interests, inventions assigned to the Secretary upon which patent applications have been filed shall be publicized as widely as possible, within limitations of authority, by the Department, by the originating agency, by the division in which the inventor is employed, and by the inventor himself in his contacts with industries in which the invention is or may be useful. Regular organs of publication shall be utilized to the greatest extent possible. In addition, it shall be the duty of the Solicitor, upon being

advised of the issuance of any patent assigned to the Secretary, to take steps towards listing the patent as available for licensing, where feasible.

§ 6.11 Condition of employment.

(a) The regulations in this subpart shall be a condition of employment of all employees of the Department and shall be effective as to all their inventions. These regulations shall be effective without regard to any existing or future contracts to the contrary entered into by any employee of the Department with any person other than the Government.

(b) If a patent application is filed upon an invention which has been made by an employee of the Department under circumstances that entitle the Government to the entire domestic right, title and interest in and to the invention, but which has not been reported to the Solicitor pursuant to the regulations in this subpart, title to such invention shall immediately vest in the Government, as represented by the Secretary, and the contract of employment shall be considered an assignment of such rights.

Subpart B—Licenses

§ 6.51 Purpose.

It is the purpose of the regulations in this subpart to secure for the people of the United States the full benefits of Government research and investigation in the Department of the Interior (a) by providing a simple procedure under which the public may obtain licenses to use patents and inventions in which the Secretary of the Interior has transferable interests and which are available for licensing; and (b) by providing adequate protection for the inventions until such time as they may be made available for licensing without undue risk of losing patent protection to which the public is entitled.

[31 FR 10796, Aug. 13, 1966]

§ 6.52 Patents.

Patents in which the Secretary of the interior has transferable interests, and under which he may issue licenses or sublicenses, are classified as follows:

(a) *Class A.* Patents, other than those referred to in paragraph (c) of this section, which are owned by the United States, as represented by the Secretary of the Interior, free from restrictions on licensing except such as are inherent in Government ownership;

(b) *Class B.* Patents in which the interest of the United States, as represented by the Secretary of the Interior, is less than full ownership, or is subject to some express restriction upon licensing or sublicensing (including patents upon which the Secretary of the Interior holds a license, patents assigned to the Secretary of the Interior as trustee for the people of the United States, and patents assigned to the Secretary of the Interior upon such terms as to effect a dedication to the public);

(c) *Class C.* Patents and patent rights acquired by the Secretary of the Interior pursuant to the Act of April 5, 1944 (58 Stat. 190; 30 U.S.C. 321–325), and any amendments thereof.

[29 FR 260, Jan. 10, 1964, as amended at 31 FR 10796, Aug. 13, 1966]

§ 6.53 Unpatented inventions.

The Secretary of the Interior may also have transferable interests in inventions which are not yet patented. In order to protect the patent rights of the Department, for the eventual benefit of the public, a license may be granted with respect to such an invention only if (a) a patent application has been filed thereon; (b) the invention has been assigned to the United States, as represented by the Secretary of the Interior, and the assignment has been recorded in the Patent Office; and (c) the Solicitor of the Department is of the opinion that the issuance of a license will not prejudice the interests of the Government in the invention. Such licenses shall be upon the same terms as licenses relating to patents of the same class, as described in § 6.52.

§ 6.54 Use or manufacture by or for the Government.

A license is not required with respect to the manufacture or use of any invention assigned or required to be assigned without restrictions or qualifications to the United States when such manufacture or use is by or for